



0000171945

ARIZONA CORPORATION COMMISSION

FORMAL COMPLAINT FORM

FORMAL COMPLAINT

WS-02987A-16-0239

COMPLAINT NUMBER 2016-131791		DATE
ADDRESS 1156 W Ivor		PHONE (HOME)
NAME OF RESPONSIBLE PARTY Ted Becker		PHONE (WORK) 480-227-6215
NAME OF UTILITY Johnson's Utility	ACCOUNT NUMBER N/A	
GROUNDS FOR COMPLAINT: (COMPLETE STATEMENT OF THE GROUNDS FOR COMPLAINT, INDICATING DATE(S) OF COMMISSION/OMISSION OR ACTS OR THINGS COMPLAINED OF.) (USE ADDITIONAL PAGE IF NECESSARY.) <p>In November 2015 Johnson Utilities held neighborhood meetings telling everyone that water lines would be installed in the area.</p> <p>I contacted Johnson Utilities in December 2015 to confirm the water lines were going to be installed. They confirmed that they were being installed.</p> <p>In January 2016 I found a lot that I was interested in purchasing. I made an offer that was accepted by the seller. At the time of signing the contract I again called Johnson Utilities and spoke with the person in charge of line extensions. I was told by her that water lines would be installed no later than the end of 2016 but most likely within a few months. I then purchased</p> <p>NATURE OF RELIEF SOUGHT: (USE ADDITIONAL PAGE IF NECESSARY.)</p> <p>We are seeking the completion of the water lines in a timely manner. If that is not possible we are requesting a reimbursement of \$78,000 for all the costs incurred due to the misinformation we were given.</p>		
Arizona Corporation Commission		ORIGINAL
DOCKETED		RECEIVED 2016 JUL -5 A 10 25 AZ CORP COMMISSION DOCKET CONTROL
JUL 05 2016		
SIGNATURE OF COMPLAINANT OR ATTORNEY		

DOCKETED BY

ARIZONA CORPORATION COMMISSION  
FORMAL COMPLAINT FORM

GROUND FOR COMPLAINT: (CONTINUED)

the lot for \$100,000 based on the information I was given by Johnson Utilities that water lines were being installed by the end of 2016. The lot was split into 3 at a cost of \$6500. Plans were drawn up at a cost of \$9000. I built pads on the 3 lots at a cost of \$16000. Impact fees of \$8700 were paid to Pinal County. Then about 5 months or so ago I was working on the properties and a neighbor came over and informed me that Johnson Utilities sent him a letter stating that they decided not to finish the water line extension.

I now am sitting with nearly my life savings lost as I can not build a house with no water.

The land has lost 50% in value due to this. The citizens in San Tan Valley are sick and tired of the antics of Johnson Utilities. Their history speaks for themselves.

It is time for the Arizona Corporation Commission to step in and take George Johnson and put him in jail. This should have been done long ago.

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- tion for leave to intervene shall be granted where by so doing the issues theretofore presented will be unduly broadened, except upon leave of the Commission first had and received. Upon the granting of an application to intervene by the Commission or the presiding officer, the intervening person shall thereafter be designated an "Intervenor".
- C. Other appearances. Notwithstanding the provisions of subsections R14-3-105(A) and R14-3-105(B), any consumer or prospective consumer may appear at any proceeding and make a statement on his own behalf, at a time designated by the Commission or presiding officer. A person so appearing shall not be deemed a party to the proceedings. When two or more interested persons under this rule have substantially like interests and positions, the presiding officer may declare them a class of interested persons for purposes of the hearing. The members of the class shall designate to be spokesman for the class one of their number, or his attorney, or such greater of their number, or attorneys, as the presiding officer shall determine. More than one class may be established for a hearing.

**Historical Note**

Former Section R14-3-105 repealed, new Section R14-3-105 adopted effective December 17, 1975 (Supp. 75-2).

**R14-3-106. Formal documents, requirement and timeliness, motions, informal complaints and protests**

- A. Formal documents. Formal documents include applications, complaints, answers, motions, replies and protests.
- B. Verification. Applications, complaints and answers need not be verified unless required by law.
- C. Form. Formal documents shall be typewritten, reproduced or printed, properly captioned and signed by an appropriate authorized individual, officer or attorney. Formal documents shall state the name and address of each party thereto and shall clearly identify the proceedings by docket number and title.
- D. Defective filing. No case need be set for hearing wherein any data required by statute or by General Order of this Commission has not been furnished by applicant.
- E. Amendments to formal documents. The Commission or presiding officer, in his discretion, may allow any formal document to be amended or corrected. Formal documents will be liberally construed and defects which do not affect substantial rights of the parties will be disregarded. The Commission or presiding officer shall cause parties or formal documents to be redesignated whenever necessary in accordance with these rules.
- F. Applications. A request for a right, authority or other affirmative relief (other than by complaint or counterclaim) or a request for leave to intervene shall be designated an "Application". The application shall set forth the name and post office address of the applicant and shall contain the facts upon which the application is based, with such exhibits as may be required or deemed appropriate by the applicant.
- G. Application for rehearing. A request for rehearing, filed either under R14-3-111 or R14-3-112, shall be designated as an "Application for Rehearing". Applications filed under R14-3-111 shall be governed by the provisions of that rule and A.R.S. § 40-253. Applications filed under R14-3-112 shall be governed by that rule.
- H. Answers. Answers to complaints are required and must be filed within 20 days after the date on which the complaint is served by the Commission, unless otherwise ordered by the Commission. All answers shall be full and complete and shall admit or deny specifically and in detail each allegation of the complaint to which such answer is directed. The answer shall include a motion to dismiss if a party desires to challenge the sufficiency of the complaint.

- I. Protests. Unless otherwise provided by special order of the Commission, a person who may be adversely affected by an application shall have the right to file a written protest with the Commission or be heard orally as a protestant at a public hearing.
- J. Response to application when required by Commission. After the filing of an Application, the Commission in its discretion may make any public service corporation or other person subject to its jurisdiction, a party to the proceedings and may require such person or corporation to respond to the allegations of the Application.
- K. Motions. Motions shall conform insofar as practicable with the Rules of Civil Procedure for the Superior Court of the state of Arizona.
- L. Formal complaints. Complaints shall be in writing and shall contain the name and address of the complainant, the name of the person or company against whom complaint is made, a complete statement of the grounds for said complaint, indicating the date or dates of the commission or omission of the acts or things complained of, and the nature of the relief sought by the complainant. The complaint shall be signed by the complainant, or by one of the complainants if there be more than one, or by an officer of the complainant if the complainant be a corporation, association or other organization, or for the complainant by an agent or attorney. If the complainant has an attorney, his name and address shall appear in the complaint and he shall sign the complaint.
- M. Informal complaints

1. Informal complaints may be made by letter or other writing. No particular form is required; however, the writing must clearly state the matters complained of and must satisfactorily identify the party complained against. It need not be verified but must be signed by the complainant or attorney and show the address of the complainant and his attorney if he has one.
2. Informal complaints may be handled by the Commission or staff, by correspondence or otherwise, with the parties affected in an endeavor to bring about a speedy adjustment of the complaint without formal hearing. Informal procedure is recommended in all cases except those which clearly cannot be adjusted informally. Proceedings on informal complaints will be conducted without prejudice to the complainant's right to file and prosecute a formal complaint if the matter cannot be properly adjusted informally, in which event the proceeding on the informal docket will be discontinued. A formal complaint must thereafter be filed if a hearing is desired.

**Historical Note**

Former Section R14-3-106 repealed, new Section R14-3-106 adopted effective December 17, 1975 (Supp. 75-2). Amended effective March 13, 1979 (Supp. 79-2).

**R14-3-107. Filing and service of formal documents**

- A. Formal documents. An original and three legible copies of all formal documents shall be filed with the Commission. One copy shall be served on any person who is already a party to the proceeding. In addition, the Commission may direct that a copy of any such documents shall be made available by the party filing same to any person whom the Commission may specify.
- B. Manner of service. Except as provided in R14-3-103(B) or unless otherwise ordered by the Commission or otherwise provided by law, all notices, orders to show cause, opinions and orders required to be served by the Commission and all documents filed by any party may be served by mail, and service thereof shall be deemed complete when a true copy of such

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paper or document, properly addressed and stamped, is deposited in the United States mail with first class postage prepaid.

- C. Proof of service. There shall appear on all documents required to be served by a party an acknowledgement of service or the following certificate:

I hereby certify that I have this day served the foregoing documents on all parties of record in this proceeding (by delivering a copy thereof in person to \_\_\_\_\_.)

(By mailing a copy thereof, properly addressed with first class postage prepaid to \_\_\_\_\_.)

Dated at \_\_\_\_\_, Arizona,  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Signature) \_\_\_\_\_

#### Historical Note

Former Section R14-3-107 repealed, new Section R14-3-107 adopted effective December 17, 1975 (Supp. 75-2).

#### R14-3-108. Prehearing conference

- A. Procedure. The Commission or presiding officer upon its own motion or upon motion of any party and upon written notice to all parties of record, may direct that a prehearing conference shall be held for the purposes of formulating or simplifying the issues, obtaining admissions of fact and of documents which will avoid unnecessary proof, arranging for the exchange of proposed exhibits or prepared expert testimony, limitation of number of witnesses and consolidation of the examination of witnesses, procedure at the hearing and such other matters which may expedite orderly conduct and disposition of the proceedings or settlements thereof.
- B. Action taken. The action taken at such conference and the agreements made by the parties concerned shall be made a part of the record and, if approved by the parties, such action will control the course of subsequent proceedings, unless modified at the hearing by the presiding officer.
- C. Recessing hearing for conference. In any proceeding the presiding officer, in his discretion, may call all parties together for a conference prior to the taking of testimony, or may recess the hearing for such conference, with the view of carrying out the purpose of this rule. The presiding officer shall state on the record the results of such conference.

#### Historical Note

Former Section R14-3-108 repealed, new Section R14-3-108 adopted effective December 17, 1975 (Supp. 75-2).

#### R14-3-109. Hearings, prehearings, conduct of hearings, procedure, evidence, subpoenas, briefs, arguments, official notice and rulings

- A. Procedure. Hearings will be held before one or more Commissioners, one or more Hearing Officers, or any combination thereof. Notice of the place, date and hour of the hearing will be served by the Commission at least ten days before the time set therefor, unless otherwise provided by law or as ordered by the Commission.
- B. Publication of notice of hearings. Publication of notice of hearings shall be as required by law or as ordered by the Commission in a particular proceeding. If publication is required, affidavit of publication shall be filed with the Arizona Corporation Commission at or prior to the time of initial hearing.
- C. Dismissal of proceeding. The Commission may dismiss the application or complaint with or without prejudice or may recess said hearing for a further period to be set by the Commission. A single Commissioner or a Hearing Officer may adjourn or recess a hearing at any time to submit a recommen-

dation to the Commission to dismiss the proceeding, or may recess said hearing for a further period to be set by the Commission.

- D. Preliminary procedure. The presiding officer shall call the proceeding for hearing and proceed to take the appearances and act upon any pending motions or applications. The parties may then make opening statements if they desire.
- E. Conduct at hearings. All parties to hearings, their counsel and spectators will conduct themselves in a respectful manner. Smoking shall not be permitted at formal hearings of the Commission.
- F. Testimony under oath. All testimony to be considered by the Commission in formal hearings shall be under oath, except matters of which judicial notice is taken or entered by stipulation.
- G. Order of procedure. Applicants or complainants (each of whom must carry the burden of proof) shall present their evidence and then such parties as may be opposing the application or complaint shall submit their evidence. The presiding officer shall determine the order in which parties shall introduce their evidence. Intervenor shall, insofar as possible, follow the party with respect to whom their interests are most closely identified. If the intervention is not in support of either original party, the presiding officer shall designate at which stage such intervenors shall be heard. Evidence will ordinarily be received in the following order unless otherwise directed by the presiding officer:

#### Upon applications

Applicant  
Intervenor or protestants  
Commission staff

#### Upon formal complaints

Complainant  
Respondent  
Commission staff  
Intervenor

#### Upon complaints by Commission

Commission staff  
Respondent  
Intervenor

#### Examination of witnesses shall proceed as follows:

Direct examination by applicant  
Cross-examination by each protestant or intervenor  
Cross-examination by staff  
Examination by presiding officer of Commissioners  
Re-direct examination by applicant  
Re-cross examination as permitted by the presiding officer  
Examination by presiding officer or Commissioners  
Opening and closing statements may be allowed

Once a party has rested his case he shall not be allowed to introduce further evidence without consent of the presiding officer.

- H. Consolidation. The Commission or the presiding officer may consolidate two or more proceedings in one hearing when it appears that the issues are substantially the same and that the rights of the parties will not be prejudiced by such procedure. At such consolidated hearing the presiding officer shall determine the order in which all the parties shall introduce their evidence and which party or parties shall open and close.
- I. Limiting number of witnesses. To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.
- J. Stipulations. With the approval of the presiding officer, the parties may stipulate as to any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral

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- statement shown upon the record and such stipulation shall be binding upon all parties thereto. The Commission or presiding officer, may, however, require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.
  - K. Rules of evidence. In conducting any investigation, inquiry or hearing, neither the Commission nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking of testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission. Rules of evidence before the Superior Court of the state of Arizona will be generally followed but may be relaxed in the discretion of the Commission or presiding officer when deviation from the technical rules of evidence will aid in ascertaining the facts.
  - L. Documentary evidence. Unless otherwise ordered by the Commission or presiding officer and if practicable, exhibits should be limited in size when folded to 8 1/2 x 11 inches. A copy of each documentary exhibit shall be furnished to each party of record present, and three additional copies shall be furnished for the use of the Commission unless the Commission or presiding officer otherwise directs. Where relevant and material matter offered in evidence is embraced in a written or printed statement, book or document of any kind containing other matter not material or relevant and not intended to be put in evidence, such statement, book or document in whole shall not be received or allowed to be filed, but counsel and other parties offering the same shall present in convenient and proper form for filing a copy of such material and relevant matter, or at the discretion of the presiding officer, read the same into the record, and that only shall be received and allowed to be filed as evidence and made a part of the record. Whenever practicable, or when ordered by the Commission or presiding officer, the parties shall interchange copies of exhibits before or at the hearing. Any documentary evidence offered, whether in the form of exhibit or introduced by reference, shall be subject to appropriate and timely objection.
  - M. Prepared testimony. The Commission may order the prefiling and service of testimony and exhibits. Before any prepared testimony is read, unless excused by the presiding officer, the witness shall deliver copies thereof to the presiding officer, the court reporter, and all counsel or parties. Admissibility shall be subject to the rules governing oral testimony. If the presiding officer deems that substantial saving in time will result, he may direct prepared testimony be copied into the record without reading.
  - N. Resolutions. Resolutions properly authenticated by the governing bodies of a governmental entity will be received in evidence if offered at the hearing by the president, secretary, or other proper person. Such resolutions shall be received subject to rebuttal by adversely affected parties as to either the authenticity of the resolution or the circumstances surrounding its procurement. Recitals of fact contained in resolutions shall not be deemed proof of those facts, and such resolutions shall only be received for the limited purpose of showing the expression of the official action of the resolving body with respect to the matter under consideration in the proceeding.
  - O. Subpoenas. Subpoenas requiring the attendance of a witness from any place in the state of Arizona to any designated place of hearing for the purpose of taking testimony of such witnesses orally before the Commission may be issued upon application in writing. A subpoena may also command the person to whom it is directed to produce books, papers, documents or tangible things designated therein. The application for such subpoenas must specify, as clearly as possible, the books, waybills, papers, accounts or other documents desired.
- The Commission or presiding officer, upon motion made promptly and, in any event, at or before the time specified in the subpoena for compliance therewith may:
1. Quash the subpoena if it is unreasonable or oppressive, or
  2. Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued, of the reasonable cost of producing the books, waybills, papers, accounts or other documents desired.
- Witnesses who are summoned are entitled to the same fees as are paid for like service in the courts of the state of Arizona, such fees to be paid by the party at whose instance the witness is subpoenaed. If service of subpoena is made by an officer of the state or his deputy, such service shall be evidenced by his return thereon. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by the required return, shall be returned forthwith to the Commission.
- P. Depositions. The Commission, a Commissioner, or any party to any proceeding before it may cause the depositions of witnesses to be taken in the manner prescribed by law and of the civil procedure for the Superior Court of the state of Arizona.
  - Q. Continuance. Either prior to hearing or during a hearing, and on a showing of good cause, a matter may be continued by the Commission or the presiding officer for submission of further or additional evidence or for any other proper purpose.
  - R. Briefs. In any hearing, briefs may be ordered by the Commission or presiding officer to be filed within such time as may be allowed. Four copies of briefs shall be filed with the Commission and shall be accompanied by a proof of service showing service on other parties of record.
  - S. Oral argument. Following the filing of briefs or upon contested motions, the presiding officer may set the matter for oral argument.
  - T. Official notice. The presiding officer may take official notice of the following matters:
    1. Rules, regulations, official reports, decisions and orders of the Commission and any regulatory agency of the state of Arizona.
    2. Contents of decisions, orders, certificates and permits issued by the Commission.
    3. Matters of common knowledge and technical or scientific facts of established character.
    4. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference; provided, however, that proper and definite reference to such document shall be made by the party offering the same and that the same is published and generally circulated so that an opportunity shall be given to all of the parties of interest at the hearing to examine the same and present rebuttal evidence.
    5. Such other matters as may be judicially noticed by the Courts of the state of Arizona.
  - U. Reliance on other records in Commission's files. When a party desires to offer in evidence any portion of the testimony, exhibits, order, decision or record in any other proceeding before the Commission, such portion shall be plainly designated in the stenographic record and, if admitted, shall be deemed to be a part of the testimony in the immediate proceeding without physical production and marking for identification.
  - V. Open hearings. All hearings conducted pursuant to these rules shall be open to the public.

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- W. Transcripts. The Commission will cause a stenographic record to be made of all public hearings. Parties desiring copies of such transcript may purchase same from the court reporter.
- X. Objections and rulings. When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. The presiding officer shall rule on the admissibility of all evidence.
- Y. Offer of proof. An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained.
- Z. Documents in the docket file as evidence for the record. The docket file is a public record and, as such, is available and open to inspection to all. Any document in such file shall not be considered unless same is offered and accepted in evidence. Such document need not be produced as an exhibit but may be received in evidence by reference, provided that the particular portions of such document are specifically identified and are competent, relative and material. If testimony in proceedings other than the one being heard is offered in evidence, a copy thereof shall be presented as an exhibit, unless otherwise ordered by the presiding officer.

**Historical Note**

Former Section R14-3-109 repealed, new Section R14-3-109 adopted effective December 17, 1975 (Supp. 75-2).  
Amended subsection (L) effective July 8, 1980 (Supp. 80-4).

**R14-3-110. Hearing officer recommendations, service of recommendations, decision and orders**

- A. Decisions. A proceeding is submitted for decision by the Commission after taking of evidence, the filing of briefs or the presentation of oral argument as may have been prescribed by the presiding officer.
- B. Recommendations of Hearing Officers. In a proceeding heard by a Hearing Officer, the Hearing Officer shall prepare his recommendation which may be in the form of an opinion and order, unless otherwise directed by the Commissioners. Such recommendation by the Hearing Officer shall become part of the Docket. Upon prior written request by a party to the Executive Secretary, a copy of such recommendation shall be sent to such party by the Executive Secretary. Such proposed order shall include recommended findings, conclusions, and order, which may be narrative form at the discretion of the Hearing Officer.  
Any party to the proceeding may serve and file five copies of exceptions to the proposed order within ten days after service thereof. There shall be no reply to exceptions and the proposed order and any exceptions filed shall be submitted to the Commission for its consideration.  
Any party to a proceeding may offer at the conclusion of the hearing, a proposed order, with Findings of Fact and Conclusions of Law for consideration by the Commission, or Hearing Officer.
- C. Service of orders. Except as otherwise provided by law, conformed copies of orders of the Commission shall be served by mailing copies thereof to the parties of record or their representatives or by personal service thereof.

**Historical Note**

Former Section R14-3-110 repealed, new Section R14-3-110 adopted effective December 17, 1975 (Supp. 75-2).

**R14-3-111. Rehearings in cases relating to the regulation of public service corporations**

All applications filed under A.R.S. § 40-253 for further hearings, rehearings, re-arguments, reconsideration or modification of orders issued in proceedings arising out of Article XV of the Constitution

or Title 40 of Arizona Revised Statutes with respect to the Commission's regulation of public service corporations shall be filed within 20 days from the date of the order of the Commission.

**Historical Note**

Former Section R14-3-111 repealed, new Section R14-3-111 adopted effective December 17, 1975 (Supp. 75-2).  
Amended effective March 13, 1979 (Supp. 79-2).

**R14-3-112. Rehearings in cases relating to the regulation of securities and corporations**

- A. Except as provided in subsection (G), any party in a contested case before the Commission arising out of Title 10 or 44 of Arizona Revised Statutes, who is aggrieved by a decision rendered in such case may file with the Commission, not later than ten days after service of the decision, a written application for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.
- B. An application for rehearing under this rule may be amended at any time before it is ruled upon by the Commission. A response may be filed within ten days after service of such application or amended application by any other party or the staff. The Commission may require the filing of written briefs upon the issues raised in the application and may provide for oral argument.
- C. A rehearing of the decision may be granted for any of the following causes materially affecting the moving party's rights:
  1. Irregularity in the proceedings before the Commission or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
  2. Misconduct of the Commission, its staff or its hearing officer or the prevailing party;
  3. Accident or surprise which could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing;
  7. That the decision is not justified by the evidence or is contrary to law.
- D. The Commission may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- E. The Commission, within the time for filing an application for rehearing under this rule, may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on application of a party. After giving the parties notice and an opportunity to be heard on the matter, the Commission may grant an application for rehearing, timely served, for a reason not stated in the application. In either case, the order granting such a rehearing shall specify the ground therefor.
- F. When an application for rehearing is based upon affidavits, they shall be served with the application. An opposing party or the staff may within ten days after such service serve opposing affidavits.
- G. If in a particular decision the Commission makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace,